

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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PHILADELPHIA EAGLES LIMITED  
PARTNERSHIP

Plaintiff,

v.

FACTORY MUTUAL INSURANCE COMPANY

Defendant.

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: Case No. 2:21-cv-01776-MMB  
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**JOINT STATUS REPORT**

Plaintiff Philadelphia Eagles Limited Partnership (the “Eagles”) and Defendant Factory Mutual Insurance Company (“Factory Mutual,” together with the Eagles, the “Parties”) hereby submit the following Joint Status Report in accordance with this Court’s February 6, 2023 Order (ECF No. 80). This status report addresses the current posture of three Pennsylvania federal and state appellate cases that this Court and the Parties previously highlighted as potentially relevant to this dispute.

***Wilson.*** The Third Circuit decided *Wilson* on January 6, 2023, affirming the judgments of the district courts in favor of the insurers. *See Wilson v. USI Ins. Serv. LLC*, 57 F.4th 131 (3d Cir. 2023). On January 20, 2023, the policyholders in *Wilson* filed a petition for rehearing before the original panel and the court *en banc*. That petition remains pending as of the date of this status report.

***Ungarean and MacMiles.*** The Pennsylvania Superior Court decided *Ungarean* and *MacMiles* on November 30, 2022. *See Ungarean v. CNA*, 286 A.3d 353 (Pa. Super. Ct. 2022); *MacMiles, LLC v. Erie Ins. Exch.*, 286 A.3d 331 (Pa. Super. Ct. 2002). In *Ungarean*, the Superior Court affirmed the trial court’s judgment in favor of policyholder. In *MacMiles*, the Superior

Court reversed the trial court's judgment, ruling in favor of the insurer. Both cases have been petitioned to the Pennsylvania Supreme Court for leave to appeal the issues presented in those cases. *See Ungarean v. CNA, et al.*, Docket No. 313 WAL 2022 (petition filed January 4, 2023); *MacMiles, LLC v. Erie Ins. Exch.*, Docket No. 307 WAL 2022 (petition filed December 20, 2022). Both petitions for allowance of appeal remain pending as of the date of this status report.

Factory Mutual further notes that the Parties' Stipulation (ECF No. 78) requested a stay of discovery pending an order from this Court concerning the issues addressed in the supplemental briefing submitted on January 17, 2023, and that the Eagles sought oral argument regarding these same issues. Factory Mutual does not believe that resolution of the matters addressed above is necessary for a ruling on its pending Motion to Dismiss.

The Eagles note their disagreement with Factory Mutual's position and submit that the stay entered by this Court should remain in effect pending the Pennsylvania Supreme Court's disposition of the petitions for allowance of appeal in *Ungarean* and *MacMiles*. If the Pennsylvania Supreme Court grants allowance of appeal in those two cases, the Eagles submit that the stay entered by this Court should remain in effect until the Pennsylvania Supreme Court decides the merits of those disputes.

Dated: April 6, 2023

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